UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

YAKOV DRABOVSKIY,

:CIVIL ACTION NO. 4:10-CV-2226

Petitioner,

: (JUDGE CONABOY)

v.

: (Magistrate Judge Carlson)

:

WARDEN, FCI-ALLENWOOD,

FILED SCRANTON

Respondent.

DEC 2 9 2010

ORDER

PER M & DEPUTY CLERK

Because Petitioner filed a similar petition on August 31, 2010, Civil Action No. 4:10-CV-1830; and

Because Magistrate Judge Carlson carefully reviewed the abovecaptioned action and determined it suffers from the same deficiencies as the previously filed petition in addition to being an unauthorized successive petition (Doc. 4)1; and

Because Petitioner filed a document we construe as objections to the Report and Recommendation, i.e., Petitioner's "Answer to the Magistrate's Report and Recommendation" (Doc. 5); and

Because the Court has performed the de novo review required when objections to the Report and Recommendation are filed, see 28 U.S.C. § 636(b)(1); and

Petitioner's assertion that Magwood v. Patterson, 130 S. Ct. 2788 (2010), supports this habeas petition because "[t]he limitations on a second or successive petition imposed by 28 USC 2244(b) apply only to the habeas corpus applications under 28 USC 2254" (Doc. 7 at 4), is unavailing in that the instant petition is barred by 28 U.S.C. § 2244(a). See Graham v. Warden of FCI Allenwood, 348 F. App'x 706, 707 (3d Cir. 2009) (not precedential); see also Queen v. Miner, 530 F.3d 253, 255 (3d Cir. 2008).

Because we conclude Petitioner's objections are without merit; and

Because Petitioner's "Motion" adding case support to his Petition (Doc. 7) does not lead to a different conclusion,

NOW, THEREFORE, THIS 99M DAY OF DECEMBER 2010, IT

IS HEREBY ORDERED THAT:

- Magistrate Judge Carlson's Report and Recommendation
 (Doc. 4) is adopted;
- The Petition for Writ of Habeas Corpus (Doc. 1) is DENIED without prejudice; and
- 3. The Clerk of Court is directed to close this case.

RICHARD P. CONABOY

United States District Judge